

**RECEIVED**

AUG 23 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

MM Docket No. 99-25

RM-9208  
RM-9242

USA Digital Radio, Inc. (“USADR”), by its attorneys, hereby submits these reply comments concerning the Greater Media, Inc. (“Greater Media”) Petition for Extension of Time in the above-captioned proceeding.<sup>1</sup> These reply comments are offered both in support of the Greater Media Petition and in response to an Opposition recently filed by the Media Access Project (“MAP”) on behalf of the Office of Communication, Inc. of United Church of Christ, *et al.*<sup>2</sup> USADR takes this opportunity to endorse the Greater Media Petition’s request that the reply comment date in the above-captioned proceeding be extended until 45 days after the release of a Notice of Proposed Rulemaking for In-Band On-Channel Digital Audio Broadcasting (“IBOC DAB”). At the same time, USADR responds to mischaracterizations of IBOC DAB and the position of IBOC DAB proponents in the MAP Opposition.

No. of Copies rec'd  
List ABCDE

<sup>1</sup> Petition for Extension of Time to File Reply Comments of Greater Media, Inc. dated August 11, 1999 ("Greater Media Petition").

<sup>2</sup> Opposition to Petition for Extension of Time of Media Access Project dated August 16, 1999 (“MAP Opposition”).

USADR is the inventor of IBOC DAB technology and is developing a system to enable existing broadcasters to upgrade AM and FM stations from analog to digital.<sup>3</sup> The USADR comments in this proceeding discuss the impact of the Commission's proposal to create a Low Power FM ("LPFM") service on implementation of IBOC DAB and highlight a number of limitations on IBOC DAB which would occur if the Commission were to adopt these proposed rules.<sup>4</sup> As is explained in the USADR Comments, USADR currently is field testing its IBOC DAB system and expects to complete those tests in time to submit information to the National Radio Systems Committee ("NRSC") by December 15, 1999. USADR further expects to have preproduction models of its equipment available and operational by the end of 2000.

USADR fully endorses Greater Media's request for additional time for the submission of reply comments. USADR agrees the number of comments in this proceeding is unusually large and there have been significant problems obtaining in a timely fashion copies of the technical studies discussed in many comments. More importantly, USADR agrees that the Commission should take no further action in this proceeding until the Commission commences a rulemaking proceeding for IBOC DAB.

The Commission itself has recognized that it cannot implement LPFM without a more thorough understanding of the impact any such rule change would have on the implementation of IBOC DAB. The implementation of either IBOC DAB or LPFM will have an impact on the Commission's ability to implement the other service. The Commissioners have recognized the

---

<sup>3</sup> *Amendment of Part 73 of the Commission's Rules to Permit the Introduction of Digital Audio Broadcasting in the AM and FM Broadcast Services*, RM-9395, *Petition for Rulemaking* (dated Oct. 7, 1998) ("USADR Petition").

<sup>4</sup> Comments of USA Digital Radio, Inc., MM Docket No. 99-25, dated August 2, 1999 ("USADR Comments").

linkage between these two matters.<sup>5</sup> Nonetheless, the Commission opted to proceed with the comment cycle on LPFM based on its intention to release a Notice of Proposed Rulemaking on IBOC DAB by the end of the summer.<sup>6</sup> Without that proceeding, there is no mechanism for the Commission to develop a record on IBOC DAB and, thus, no means to appropriately judge the Commission's ability to implement LPFM. Thus, it would be inefficient to continue with the collection of reply comments in this proceeding before the Commission takes action on IBOC DAB. USADR encourages the Commission to conserve its resources and the resources of the numerous parties who are participating in this proceeding by extending the reply comment date until there is a full knowledge of the approach the Commission will take for IBOC DAB. What USADR hopes will be only a brief delay before the release of an IBOC DAB Notice of Proposed Rulemaking, will avoid the need for commenters to supplement their reply comments with information concerning IBOC DAB once the Commission moves forward with that proceeding.

USADR also objects to MAP's mischaracterization of the position of IBOC proponents. USADR has not requested that the Commission defer action on LPFM until it establishes a standard for IBOC DAB. Rather, USADR has asked the Commission to take no action to adopt LPFM rules until there is a technical record concerning the operation of IBOC DAB. However, this proceeding is not the appropriate vehicle for development of that record. The Commission must initiate a rulemaking proceeding on IBOC DAB to establish appropriate procedures for an organized and timely collection of information about the current tests of IBOC DAB systems. USADR believes

---

<sup>5</sup> See e.g. Separate Statements of Commissioners Gloria Tristani, Susan Ness and Michael K. Powell, MM Docket No. 95-25 (Feb. 3, 1999).

<sup>6</sup> See *Order*, MM Docket No. 99-25 (May 20, 1999) at 2 ("we take this opportunity to state our intention to launch a rulemaking proceeding regarding digital radio this summer").

Based on the foregoing, USADR respectfully requests that the Commission grant the Greater Media Petition and extend the reply date for comments in this proceeding until 45 days after the release of a Notice of Proposed Rulemaking for IBOC DAB.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert A. Mazer", with a long horizontal flourish extending to the right.

Robert A. Mazer  
Albert Shuldiner  
Vinson & Elkins L.L.P.  
1455 Pennsylvania Avenue, N.W.  
Washington, DC 20004-1008  
(202) 639-6500

Counsel for USA Digital Radio, Inc.

Dated: August 23, 1999


CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23th day of August, 1999, a true and correct copy of the foregoing Reply Comments of USA Digital Radio, Inc. in Support of Petition for Extension of Time was served by first class mail, postage prepaid, upon the following:

Cheryl A. Leanza  
Andrew Jay Schwartzman  
Harold J. Feld  
Media Access Project  
1707 L Street, N.W.  
Suite 400  
Washington, D.C. 20036

Henry L. Baumann  
Jack N. Goodman  
Lori J. Holy  
National Association of Broadcasters  
1771 N Street, N.W.  
Washington, D.C. 20036

Malcolm G. Stevenson  
Schwartz, Woods & Miller  
Suite 300, Dupont Circle Building  
1350 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
Counsel for Greater Media, Inc.

  
\_\_\_\_\_  
pop